

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

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TIMMINS SOFTWARE CORPORATION	:
d/b/a MITREND,	:
	:
Plaintiff,	Civil Action
v.	No. 19-12053-IT
EMC CORPORATION, DELL	:
TECHNOLOGIES INC., and DELL INC.,	:
	:
Defendants.	:
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EMC CORPORATION, DELL	:
TECHNOLOGIES INC., and DELL INC.,	:
	:
Counterclaim-Plaintiffs,	:
v.	:
TIMMINS SOFTWARE CORPORATION	:
d/b/a MITREND,	:
	:
Counterclaim-Defendant.	:
----- X	

**DEFENDANTS' NOTICE CONCERNING PREVIOUSLY FILED
ANSWER, AFFIRMATIVE DEFENSES AND COUNTERCLAIMS**

Defendants EMC Corporation, Dell Technologies Inc. and Dell Inc. (collectively “Dell”) respectfully submit this notice to inform the Court that Dell previously filed its Answer, Affirmative Defenses and Counterclaims before the Court issued its ruling (Docket Nos. 64, 67) on Dell’s partial motion to dismiss. Accordingly, Dell already has served a pleading responsive to the Amended Complaint and no further responsive pleading from Dell is required at this time. Specifically:

1. On October 22, 2019, Plaintiff Timmins Software Corporation (“TSC”) filed an Amended Complaint. (Docket No. 5.)

2. On December 13, 2019, Dell filed a Motion to Dismiss Counts III, IV, VI and VII of the Amended Complaint (“Motion to Dismiss”). (Docket No. 23.)

3. While Dell’s Motion to Dismiss was pending, the parties proceeded to conduct significant document discovery. As part of that discovery process, TSC requested that Dell file its Answer, Affirmative Defenses, and Counterclaims because discovery was ongoing and the parties desired to conduct document discovery in an efficient manner.

4. In response to TSC’s request, on September 25, 2020, Dell filed its Answer, Affirmative Defenses, and Counterclaims. (Docket No. 64.)

5. On October 16, 2020, TSC subsequently filed an Answer and Affirmative Defenses to Defendants’ Counterclaims. (Docket No. 65.)

6. Thereafter, on November 24, 2020, the Court issued an order denying Defendants’ partial Motion to Dismiss. (Docket No. 67.) Pursuant to Fed. R. Civ. P. 12(a)(4)(A), “if the court denies the motion or postpones its disposition until trial, the responsive pleading must be served within 14 days after notice of the court’s action.”

7. Because Dell already has filed a responsive pleading that responds to the Amended Complaint, no further responsive pleading from Dell is required at this time: Dell relies upon its previously filed Answer, Affirmative Defenses and Counterclaims. (Docket No. 64.) If the Court should require that Dell make any further filing, Dell will promptly do so.

Dated: December 7, 2020
Boston, Massachusetts

Respectfully submitted,

/s/ Kurt Wm. Hemr

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